UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/51/325
16 September 1996

ORIGINAL: ENGLISH

Fifty-first session
Item 105 of the provisional agenda*

ADVANCEMENT OF WOMEN

Violence against women migrant workers

Report of the Secretary-General

CONTENTS

		Paragraphs	Page
I.	INTRODUCTION	1 - 4	3
II.	CONCLUSIONS AND RECOMMENDATIONS ADOPTED BY THE EXPERT GROUP MEETING ON VIOLENCE AGAINST WOMEN MIGRANT WORKERS	5 - 7	3
III.	ACTIONS TAKEN BY ORGANIZATIONS OF THE UNITED NATIONS SYSTEM ON THE SITUATION OF WOMEN MIGRANT WORKERS	8 - 15	4
	A. Commission on the Status of Women	9	5
	B. Commission on Human Rights	10 - 11	5
	C. Commission on Crime Prevention and Criminal Justice	12 - 15	6
IV.	COMMENTS PROVIDED BY GOVERNMENTS	16 - 27	7
	A. National legislation of receiving countries: preventive and protective measures	19 - 20	7

* A/51/150.

96-22853 (E) 071096

CONTENTS (continued)

Paragraphs

B. National legislation of sending countries: preventive and protective measures ..... 21 - 22

C. Recommendations and suggestions ..... 23 - 27

Annex. Conclusions and recommendations adopted by the expert group meeting on violence against women migrant workers .....

I. INTRODUCTION

1. In resolution 50/168 on violence against women migrant workers, the General Assembly made a number of recommendations for action and requested the Secretary-General to convene a meeting of an expert group, with the participation of the Special Rapporteur of the Commission on Human Rights on violence against women and under the regular programme of the Division for the Advancement of Women of the Secretariat, for the purpose of drawing up recommendations for improving coordination among United Nations agencies on the issue of violence against women migrant workers and developing concrete indicators as a basis for determining the situation of women migrant workers, for submission through normal channels to the General Assembly at its fifty-first session.

2. As requested, the Secretary-General convened an expert group meeting on violence against women migrant workers. The meeting was held in Manila from 27 to 31 May 1996 at the invitation of the Government of the Philippines, and was attended by experts and observers from a number of sending and receiving countries, intergovernmental organizations, organizations of the United Nations system and non-governmental organizations. The Special Rapporteur was unable to attend the meeting due to previous commitments related to her mandate but sent a message that was taken into account by the meeting.

3. As requested in operative paragraph 8 of the above-mentioned resolution, the conclusions and recommendations of the expert group meeting were submitted to the Economic and Social Council (E/1996/71, annex) as a normal channel; the Council took note of the report.

4. The conclusions and recommendations adopted by the expert group meeting are contained in the annex to the present report. In order to assist the Assembly in considering the recommendations, the Secretary-General wishes to call its attention to his previous reports to the Assembly at its forty-ninth (A/49/354) and fiftieth (A/50/378) sessions. In addition, in order to provide a wider basis for consideration the present report includes information provided by the 20 Member States who had responded by 26 August 1996 to the Secretary-General's note verbale requesting information on the implementation of Assembly resolution 50/168, 1/ as well as a review of action taken by a number of United Nations bodies 2/ over the past year. The attention of the General Assembly is also drawn to the report of the Secretary-General on trafficking in women and girls (A/51/309).

II. CONCLUSIONS AND RECOMMENDATIONS ADOPTED BY THE EXPERT GROUP MEETING ON VIOLENCE AGAINST WOMEN MIGRANT WORKERS

5. The conclusions and recommendations of the expert group meeting on violence against women migrant workers (see annex) are presented for the consideration of the General Assembly as they were adopted, with reservations as expressed reflected in the notes to the annex to this report. As requested, the meeting concentrated its attention on the two issues specified by the Assembly in its

resolution 50/168: (a) indicators and (b) improving coordination among organizations of the United Nations system with respect to the problem.

6. The expert group meeting made extensive recommendations on the types of indicators that might be used. The Secretary-General draws the attention of the Assembly to the fact that the indicators cover both the issue of violence against women and the issue of tracking international migration conditions. At present, there are no internationally agreed indicators for violence against women, and the work of the expert group meeting could be considered a starting point for work on such indicators. The expert group meeting has recommended that the United Nations facilitate the development of standardized procedures for the data collection recommended, and that it encourage all sending and receiving countries to collect and share such data. Given the current extent of knowledge of the situation of violence against women migrant workers, the expert group recommended that the appropriate United Nations body/entity undertake as soon as possible a series of studies in selected sending and receiving countries with the objectives of (a) obtaining valid basic data on the extent and nature of violence against women migrant workers, and (b) obtaining an in-depth understanding of the impact of violence on women migrant workers, their families and their communities.

7. The expert group meeting also made a number of recommendations on coordination at the level of the United Nations system, which mainly involve integrating the issue of violence against women migrant workers into existing mechanisms and programmes. To the extent that such mechanisms or programmes are seized of the issue, such integration can be achieved, but further consideration will be required. The expert group meeting recommended that the Administrative Committee on Coordination (ACC) serve as the focal point within the United Nations system responsible for effectively coordinating initiatives concerning violence against women migrant workers. In that capacity, ACC, its task forces and the Inter-Agency Committee on Women should examine the mandates and policies of agencies and bodies of the United Nations to identify where their work could be enhanced concerning violence against women migrant workers. In addition, ACC should undertake a comprehensive review of the effectiveness of existing policies on migration, women and violence against women in order to identify the gaps in fully addressing issues related to violence against women migrant workers. The Secretary-General will bring those recommendations to the attention of the appropriate bodies of ACC.

III. ACTIONS TAKEN BY ORGANIZATIONS OF THE UNITED NATIONS SYSTEM ON THE SITUATION OF WOMEN MIGRANT WORKERS

8. During the year since the Assembly took up the issue of women migrant workers, a number of intergovernmental bodies and organizations of the United Nations system have undertaken further work on the subject.

A. Commission on the Status of Women

9. At its fortieth session, the Commission on the Status of Women adopted resolution 40/6 on violence against women migrant workers. In addition to reiterating operative paragraphs from General Assembly resolution 50/168, the Commission invited States concerned, specifically those sending and receiving women migrant workers, to conduct regular consultations for the purpose of identifying problem areas in promoting and protecting the rights of women migrant workers and ensuring health, legal and social services for them; to adopt specific measures to address those problems, setting up, as appropriate, linguistically and culturally accessible services and mechanisms to implement such measures; and in general to create conditions that foster greater harmony and tolerance between women migrant workers and the rest of the society in which they reside. The Commission further encouraged States Members of the United Nations, particularly those from which women migrant workers originate and those that play host to them, to ensure the protection of the rights and fundamental freedoms of women migrant workers, as defined by international conventions and agreements and taking into account the outcome of recent international conferences. It recognized the vulnerability to violence and other forms of abuse of women migrants, including women migrant workers whose legal status in the host country depends on the employers who may exploit their situation. Finally, the Commission called upon States to explore the possibility of adopting measures to prevent the victimization of women migrant workers by sexual traffickers and to penalize such traffickers, including the ratification of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. 3/

B. Commission on Human Rights

10. As recommended in General Assembly resolution 50/168, the Commission on Human Rights, at its fifty-second session, dealt with the issue of violence against women migrant workers and adopted resolution 1996/17, in which, in addition to reaffirming operative paragraphs from the General Assembly resolution, the Commission welcomed the scheduling of the expert group meeting on violence against women migrant workers; invited the Special Rapporteur on violence against women to continue to include among the urgent issues pertaining to her mandate the violence perpetrated against women migrant workers; and decided to continue to consider the question at its fifty-third session.

11. The Working Group on Contemporary Forms of Slavery of the Subcommission on Prevention of Discrimination and Protection of Minorities considered the issue at its twenty-first session, in July 1996, and adopted recommendation 21/9 on migrant workers, in which it noted that foreign migrant workers are frequently subject to discriminatory rules and regulations that undermine human dignity, such as by forcing them to live separately from their spouses and minor children, sometimes for extended periods, and are often victims of violence, racism and xenophobia. The Working Group also noted cases of migrant domestic workers who are unpaid, subject to various abuses and deprived of all their rights. It urged States to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 4/ and to take necessary measures to sanction employers for the

confiscation of passports belonging to migrant workers, in particular migrant domestic workers. The Working Group recommended that non-governmental organizations give attention to the grave problems affecting migrant workers and provide the Working Group with relevant information. Finally, it recommended to the Subcommission that it examine the issue at its forty-eighth session.

C. Commission on Crime Prevention and Criminal Justice

12. The Secretary-General submitted to the Commission on Crime Prevention and Criminal Justice, at its fifth session, a report on a draft plan of action on the elimination of violence against women, including the observation and comments of Governments thereon (E/CN.15/1996/11 and Corr.1); by extension, the plan of action covers women migrant workers. The plan of action was revised by the Commission during its session and is now entitled "Practical measures, strategies and activities in the field of crime prevention and criminal justice for the elimination of violence against women" (E/CN.15/1996/CRP.12).

13. During the discussion by the Commission, it was emphasized that violence against women occurs in all spheres of private and public life, and that such violence has reached alarming proportions. The vulnerability of women in conflict situations was stressed. The matter can only be remedied by making achievements in gender equality and making other improvements in the status of women; no State can claim to have done all that it can in that regard. It is of vital importance in situations of violence against women to break the cycle of violence and ensure that the use of violence against women does not become a learned behaviour and that victims are able to escape the violent environment. As for measures to eliminate violence against women, it is essential to enact legislation that would make it a criminal offence to perpetrate violence against women in any form and would punish the perpetrators of such violence. Other important measures in that area include providing specialized training for practitioners; establishing centres for assistance and advice; assisting victims by facilitating their access to justice and recovery from the victimizing event; and working with the media to avoid gender stereotyping. There is a need for measures to assist particularly vulnerable groups of women, including women migrant workers.

14. It was noted that the measures outlined in the above-mentioned report of the Secretary-General pursue the goals of the Beijing Declaration and Platform for Action (A/CONF.177/20, chap. I, resolution 1, annexes I and II) adopted by the Fourth World Conference on Women. They implement and build upon the Platform's strategic objectives D.1-D.3 on the elimination of violence against women, and strategic objectives L.1-L.9 on discrimination against the girl child, which fall squarely within the purview of the work of the Commission on Crime Prevention and Criminal Justice (see E/1996/30, paras. 50 and 51).

15. In its draft resolution III, the Commission recommended to the Economic and Social Council, inter alia, that it urge Member States to adopt a number of measures for the elimination of violence against women, and request the Secretary-General to seek the views of Member States and others on the draft practical measures and strategies referred to above, for submission to the

Commission at its sixth session. The resolution was adopted by the Council as its resolution 1996/12.

IV. COMMENTS PROVIDED BY GOVERNMENTS

16. The replies of the 20 Member States who responded to the Secretary-General's request for information are analysed below in terms of their implications for policy decision-making by the Assembly. The analysis highlights the main trends in the approach of the responding States in dealing with the issue of violence against migrant women workers.

17. Most replies considered that workers' human rights should be protected regardless of their residential status, and indicated that Governments have established national legislation to that end. Such legislation often does not make a distinction between men and women, and includes both preventive and protective measures. In addition, several countries stressed that they do not make a distinction between legal and illegal migrant workers where human rights are concerned. Hence, when a worker is ill-treated by her or his employer, whether she or he is a citizen or migrant of the said country, her or his rights are legally protected under existing legislation.

18. The replies suggest, however, that there is wide acceptance that the issue of violence against female migrant workers needs to be placed on the global agenda. First, it is recognized that the majority of migrant workers are women. Second, a considerable number of migrant workers are involved in vulnerable sectors of labour markets, such as domestic service and entertainment. Third, domestic service, the most popular form of employment for female migrant workers, exposes women to the risk of violence in the household.

A. National legislation of receiving countries: preventive and protective measures

19. Most countries that are net recipients of migrant workers reported that there exist well established and effective national regulations, and that employers who ill-treat their employees are punished accordingly. Such regulations may form a part of the constitution, civic code, employment act, labour law, criminal law, women's charter and/or penal code. In many countries, incidents of violence are treated as cases of human rights violation. Some receiving countries also noted their screening mechanism, which controls the flow of migrants as well as providing a regular checking system on employers. A few countries have organized advocacy activities to increase public awareness of human rights issues, and in some countries, the Government has conducted special training of police force and immigration officials in order to increase the effectiveness of existing legislation. Many receiving countries reported that such measures are satisfactorily preventing violence against female migrant workers.

20. If, however, an act of violence is committed, many receiving countries have set up a response mechanism through which victims are given official assistance. Some Governments have conducted surveys in order to prepare appropriate victim-

support mechanisms. Protection provided to victims can include temporary housing; counselling; free legal advice, with or without interpreters; and repatriation support.

B. National legislation of sending countries: preventive and protective measures

21. Although they express their concern at the welfare of their nationals working abroad, some sending countries also noted the difficulties involved in monitoring their movements once workers have left their country of origin. Som countries reported that they screen workers leaving for another country as well as agencies or brokers who recruit workers. Public awareness activities have been organized in a few countries to inform potential migrant workers of the possible risks that they may be taking. A few Governments have set up coordinated networks with their national agencies abroad (e.g., consulates and embassies) to monitor the welfare of their nationals. Such networks also provide assistance to victims of violence.

22. Upon their return to their own countries, victims can be given assistance for rehabilitation through networks of government and non-governmental organizations. In addition, several sending countries reported on efforts to establish coordination arrangements with other countries for preventing violenc against female migrant workers or providing protection.

C. Recommendations and suggestions

23. In their replies, some Governments have provided recommendations for dealing with the issue of violence against women migrant workers that should be taken into account together with those made by the expert group meeting on violence against women migrant workers; they are summarized below.

24. A number of countries have conducted a survey to review the situation of migrant workers in order to establish more appropriate measures for protecting their rights. Many countries that have not yet done so are nevertheless planning to conduct such surveys to improve the living and working condition of migrant workers. Several countries, however, have recognized that documented cases of violence and abuse against women workers usually understate the forms and levels of violence and abuse that they have actually experienced. In addition, many women workers tend not to report such cases, thus making it difficult for Governments to obtain realistic data.

25. Many countries expressed their willingness to tackle the problem in coordination with the United Nations. Most of the responding Governments have signed more than one international convention dealing with migration, violence and/or women's rights, and have implemented them in their constitutions. In addition, a few countries pointed to the limited influence that a single Government can exert and emphasized that international coordination is essential.

26. Several countries also welcomed the introduction of coordinated measures between receiving and sending countries. However, they noted that it would not be an easy matter to decide, for example, whether or not a Government should have criminal jurisdiction over foreign sex offenders.

27. A few countries felt strongly that the welfare of migrant workers is better addressed within the legal and administrative framework of the receiving country, a view derived from the assumption that people move because of the poverty in their own county. On the other hand, the responsibility of sending countries to educate their citizens before leaving the country was also stressed.

Notes

1/ Australia, Bahrain, Belgium, Cuba, Cyprus, Finland, Germany, Greece, Indonesia, Japan, Kenya, Kuwait, Mexico, Morocco, Philippines, Singapore, Spain, Turkey, Uganda and the United States of America.

2/ Including the Centre for Human Rights of the United Nations Secretariat, the Economic and Social Commission for Western Asia, the International Research and Training Institute for the Advancement of Women, the United Nations Population Fund and the International Labour Organization.

3/ General Assembly resolution 317 (IV).

4/ General Assembly resolution 45/158, annex.

ANNEX

Conclusions and recommendations adopted by the expert group meeting on violence against women migrant workers

CONTENTS

		Paragraphs	Page
I.	PREAMBLE	1 - 4	11
II.	KEY ISSUES	5 - 42	11
	A. Migration patterns and trends	5 - 6	11
	B. Report of the Special Rapporteur on violence against women	7	12
	C. Dynamics of violence against women migrant workers	8 - 12	12
	D. Impact of migration on employment	13	13
	E. Abuses faced by women migrant workers	14 - 22	13
	F. Policies and mechanisms to address violence against women migrant workers	23 - 31	14
	G. Collaborative efforts	32 - 35	15
	H. Indicators and statistical data collection	36 - 38	16
	I. Empowerment strategies	39	16
	J. Role of non-governmental organizations	40	17
	K. Statements of observers	41 - 42	17
III.	RECOMMENDATIONS	43 - 77	17
	A. Indicators of violence	44	18
	B. Indicators of vulnerability	45	19
	C. Data on the general characteristics of women migrant workers	46	20
	D. Methods of data collection	47	21
	E. Other recommendations	48 - 49	22
	F. Measures to improve the coordination efforts of the United Nations system on violence against women migrant workers	50 - 77	22

I. PREAMBLE

1. Violence against women migrant workers is a serious, complex and sensitive issue. The plight of women migrant workers who become victims of physical, mental and sexual harassment and abuse at the hands of their employers, their intermediaries, or the police - a situation exacerbated by economic exploitation - is one that calls for concerted action at the international, national and regional levels.

2. Discussions at the Expert Group Meeting reflected the diversity of experiences and perspectives among sending and receiving countries. Such diversity illustrates the different conditions prevailing in different countries and the varied approaches that have been adopted in response to the problem.

3. Recognition of the increasing numbers of migrant women workers who are subjected to exploitation has grown over the past few years. Despite the growing attention and the creation of specific norms, procedures and institutions to protect migrant workers, serious gaps remain.

4. A major constraint to dealing with the issue has been the lack of adequate information, not only about the prevalence of violence but also about its extent and magnitude. Therefore, in dealing with the issue of violence against women migrant workers, there is a tendency to focus on a limited number of reported cases.

II. KEY ISSUES

A. Migration patterns and trends

5. The Meeting noted that a sharp acceleration in labour flows in the past decade had been accompanied by an increasing feminization of labour. The growing share of women migrating for employment had been concentrated in two unprotected sectors of the international labour market: those of domestic helpers and entertainers. The global demand for those gender-segregated jobs reflected the gender division of labour operative in most countries. At the same time, the number of women migrating through illegal, undocumented and clandestine channels had increased.

6. There was little doubt that, as a result of structural and demographic changes within the labour-receiving countries, the demand for overseas workers in what had been identified as "vulnerable categories" was expected to increase. That was owing to global restructuring, an expansion of the services sector, a rising female labour-force participation rate, and an ageing of the population in the receiving countries. On the other hand, the supply of workers from sending countries was almost unlimited. Among the causes were unemployment, large wage differentials between countries, and a web of social networks that encouraged and facilitated placement.

B. Report of the Special Rapporteur on violence against women

7. The Expert Group Meeting welcomed and acknowledged the message of the Special Rapporteur of the Commission on Human Rights on violence against women, Ms. Radhika Coomaraswamy. The Meeting fully endorsed the message of the Special Rapporteur, which articulated that violence against women was a fundamental issue of women's human rights. In addition, the Meeting endorsed the Special Rapporteur's statement that an analysis of the human rights of women migrant workers was essential in order to hold States accountable for the protection of their human rights.

C. Dynamics of violence against women migrant workers

8. The Meeting affirmed that women's rights were human rights, as had been reflected and affirmed in many United Nations human rights instruments and documents. The Vienna Declaration, a/ the Beijing Platform for Action, b/ the Convention on the Elimination of All Forms of Discrimination Against Women c/ and the Declaration on the Elimination of Violence Against Women d/ were critical documents in enabling the international community to redefine and expand the conceptual analysis of universally recognized rights and to make visible the violations to which women, including women migrant workers, were subjected.

9. The Expert Group reaffirmed General Assembly resolution 50/168 on violence against women migrant workers, recognizing the obligations of both sending and receiving countries to protect and promote the interests and human rights of women migrant workers. The Meeting further took note of the relevance of the Declaration on the Elimination of Violence Against Women d/ and General Recommendation No. 19 of the Committee on the Elimination of Discrimination against Women, on violence against women, to an understanding of the analysis of the issue at hand. It adopted the Declaration's definition of violence against women as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life". d/ The Group agreed that economic exploitation can be a form of violence.

10. Violence against women migrant workers should also be viewed from the wider context of gender-based violence. Violence against women migrant workers was part of the problem of violence perpetrated against women in general. The problem concerned both sending and receiving countries.

11. It was necessary to view the vulnerabilities of migrant women workers in the context of globalization and unequal economic and political relations between labour-importing and labour-exporting countries, and of competition among labour-exporting countries.

12. It was noted that processes of migration were fuelled by extensive business interests involved in recruitment and placement and the financing of migration for employment. That had led to a continuing debt burden on individual migrant women workers and their families. In certain cases, commercial interests had

overlapped with criminal elements involved in the trafficking and forced prostitution of women.

D. Impact of migration on employment

13. The Expert Group Meeting agreed that there were benefits and social costs involved in migration for employment at the levels of the individual, family, and community in both sending and receiving countries. To the extent that sending and receiving Governments perceived, benefits arising from - and therefore facilitated - the movements of women migrant workers, and acknowledge that such movements also carried a personal and social cost, it was imperative that such women be afforded the highest possible level of protection.

E. Abuses faced by women migrant workers

14. The Group agreed that the nature of the abuse faced by women migrant workers took both physical and non-physical forms. Women migrant workers experienced social, psychological, physical and sexual abuse at different stages of the migration process, from their recruitment, preparation, working abroad and return.

15. Long working hours, deceptive contractual arrangements, contract alterations and substitutions, the exploitative role of some intermediaries and lack of avenues for redress of grievances had been commonly reported. The lack of social contacts and support systems and the deprivation of family life posed a severe psychological toll on the women migrant workers. Physical and sexual abuse might range from verbal abuse to severe maltreatment, battering, rape and forced abortion. Economic exploitation had exacerbated the vulnerability of women migrant workers to abuse.

16. The Expert Group also identified the traumatic experiences of women migrant workers caught in situations of armed conflict and/or political and social turbulence in countries of destination. Set aside by employers, many women workers had suffered from rape, abuse and hardship in their attempts to secure their safety. Their premature return to their home countries was difficult because they faced the burden of huge debts and, in some cases, unwanted pregnancies.

17. The vulnerability of women migrant workers was intrinsically tied to their legal status. A migrant with an undocumented status was especially vulnerable. Typically, vulnerability arose from the asymmetry of the status of the employers and employees, which also entailed a relationship of dependency on the part of the employees towards their employers and their agents.

18. The vulnerability of domestic helpers was due not only to their migrant status but also to the fact that the occupations in which they were concentrated were not normally covered by the labour codes or social security provisions of host countries.

19. The nature of the relevant sectors, such as domestic service and entertainment, made the enforcement of legislation, especially that applying to female migrant workers, truly difficult. Prostitution subjected female migrants to harassment, raids and deportation.

20. Cross-cultural and language differences hindered understanding and often resulted in miscommunication between employers and the migrant women workers. Such misunderstanding could instigate physical and verbal abuse.

21. The Expert Group expressed concern over the conditions of irregular and undocumented women workers. The large flows of such workers were indicative of extensive trafficking networks within and between countries. Trafficking had placed the women migrants in very precarious employment situations, rendering them completely dependent on their employers and/or recruiters. That had resulted in substandard wages and exploitative terms and conditions of work. While both sending and receiving countries may have enacted laws to deal with the problem, many of them had proved ineffective. The Expert Group also noted that one of the ironies of restrictive immigration and emigration policies was their tendency to push women into illegal and unsupervised channels of migration and employment.

22. Violence against women migrant workers had both short-term and long-term effects on the individual woman, her family and her society. It not only caused damage to the physical and mental health of the victims but also left long-term psychological effects. It also exacted a toll on a country's image and esteem and eroded people's confidence in their Government's capacity to provide a decent life for its citizens and to protect them.

F. Policies and mechanisms to address violence against women migrant workers

23. The Meeting agreed that a single blanket approach to a complex set of problems may not benefit all parties concerned. It was necessary to take a differentiated approach to the delicate issue at hand.

24. Labour-sending countries needed to develop a comprehensive framework that would lead to the maximization of the development benefits of migration to the individual migrant and to the country, while minimizing its adverse effects.

25. Policies that would expand the national productive capacity to absorb potential and returning women migrant workers into the domestic economy were equally important. Such policy initiatives would reduce the pressure to emigrate on women migrant workers, thus affording them better protection in the long term.

26. Although several sending countries had extensive rules for regulating the work of private recruitment agents, many loopholes and violations existed. Restrictions such as a ban on the emigration of domestic helpers and minimum age requirements had proved ineffective.

27. Sending Governments needed to be more proactive in demanding rights for their migrant workers. Often, the issue of violence against women migrant workers was marginalized in the face of broader socio-political and economic relations between sending and receiving countries.

28. Sending States should provide orientation programmes to prepare potential women migrant workers for their future sojourn in receiving States. The envisaged preparation would include information about laws, the rights of migrant workers, culture, and working and living conditions in receiving countries. To prevent physical and sexual abuse, the prospective workers must be thoroughly informed of the dangers inherent in domestic work and should be trained in effective ways of responding to and removing themselves from abusive situations. Such information would include mechanisms for support services - e.g., shelters, mediation, and non-governmental organizations.

29. In the view of the Expert Group an important receiving country issue was the existence of immigration laws inimical to women migrant workers, such as deportation without recourse. Many of the countries that currently tacitly approved illegal migration to meet labour shortages needed to ensure that real demand for imported labour was met through legal channels which afforded protection to the migrants and recognized their genuine rights.

30. Where they did not exist, laws that ensured the protection of women migrant workers should be enacted by receiving countries.

31. In recognition of the contribution of women migrant workers, the receiving States should assure their welfare by providing basic services.

G. Collaborative efforts

32. As stated in General Assembly resolution 50/168, both sending and receiving countries have an obligation to seek mutual solutions to the identified problems. Governments of the sending and receiving States should consider entering into appropriate bilateral agreements and other arrangements which should provide guidelines on the best ways to deal with the problems of violence against women migrant workers.

33. A number of views were expressed on the importance of international and multilateral agreements and conventions - for example, the need to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, e/ conventions of the International Labour Organization and other international and regional conventions that were relevant to the protection of migrant women workers, on such matters as trafficking and prostitution, elimination of discrimination against women, slavery, forced labour and child labour. It was important to renew efforts to mobilize support in member States for the ratification and the accession to international conventions and instruments that were relevant to the promotion of the welfare of women migrant workers.

34. It was repeatedly stressed that it was essential to take a global approach to the issues of violence and the harmonization of policies in the direction of greater protection of the rights of women migrant workers.

35. The Expert Group noted that many United Nations organizations were involved in work related to issues of migration and violence against women migrant workers - the Commission on the Status of Women, the Commission on Human Rights, the Commission on Population and Development, the International Labour Organization, and the United Nations Development Fund for Women, and other United Nations human rights monitoring bodies.

H. Indicators and statistical data collection

36. The Group pointed out that good public policy needed to be based on facts about the actual situation of the people for whom the policy was being developed. Data were needed about the types of problems as well as their extent. Discrepancies existed in reports of the numbers of migrant workers, because they were based on different sources, including sending and receiving countries, and used different methodologies, including airport surveys and registration of contracts. The discrepancies hindered the comparability of data across States. Another problem in deriving a profile of migrant women workers arose because of the uncertain nature of their legal status.

37. As far as overt evidence of violence was concerned, there was massive underreporting, for four reasons: fear of reprisals, fear of deportation, the pressure of indebtedness, and shame and embarrassment. Even where reporting existed, it was fragmented, and information was not consolidated. The isolated and dependent nature of employment was an indicator of both of underreporting and an indication of the massive and hidden extent of abuse.

38. The Group agreed that the United Nations should facilitate the development of standardized procedures for the data collection recommended and encouraged all sending and receiving countries to collect and share such data. It also agreed that indicators of violence against women migrant workers should include all acts of exploitation and abuse of rights which reflected a perception of women as inferior and rendered them vulnerable to other forms of violence.

I. Empowerment strategies

39. The Expert Group recognized that there had been several creative and notable initiatives undertaken by migrant women workers themselves. They had organized self-help and support groups in such areas as counselling, skills training, legal and paralegal assistance, including information on rights, and social and recreational projects. With the assistance of sympathetic groups, they had also lobbied for the relaxation of restrictive governmental policies and the provision of, and greater access to, social services and benefits.

J. Role of the non-governmental organizations

40. The Expert Group considered as critical the important work of non-governmental organizations which had alerted the international community to violations of women's human rights and had provided research, documentation and the political will to find appropriate redress. It was important to encourage non-governmental organizations and other advocacy groups to be more involved not only in the identification of the problems but also in finding solutions through local, regional and international programmes. In that regard, non-governmental organizations should be enabled, supported and encouraged to do their work.

K. Statements of observers

41. Statements were made by official observers from the Governments of Belgium, Germany, Indonesia, Japan, Nigeria, the Philippines and Singapore and from the Committee on the Elimination of Discrimination against Women. Representatives from United Nations agencies and bodies also spoke - namely, the International Labour Organization (ILO), United Nations High Commissioner for Refugees (UNHCR), United Nations Population Fund (UNFPA), United Nations Development Fund for Women (UNIFEM), and the United Nations Development Programme (UNDP). The representative of the International Organization for Migration (IOM), an intergovernmental organization, also made a statement. Statements were read by the following non-governmental organizations: Third World Movement Against the Exploitation of Women (TW-MAE-W), No to Violence Against Women (NOVA), Association of Filipino Overseas Workers, Philippine Migrants Rights Watch, Yokohama Diocese Solidarity Centre for Migrants, and the Asian and Pacific Development Centre.

42. The observer from Singapore made four points in his statement which he wanted recorded. These were: first, that the issue of violence against women migrant workers should be seen in a wider context; secondly, that, as stated in the experts' papers, responsibility should be borne by sending and receiving countries; thirdly, that there appeared to be overall net benefits accruing to many women migrant workers; and fourthly, that there was need to acknowledge a differentiated approach to the issue, given the different domestic conditions prevailing in different countries.

III. RECOMMENDATIONS

43. Noting General Assembly resolution 50/168, in which the Assembly requested the Meeting "to develop concrete indicators as a basis for determining the situation of women migrant workers", the Expert Group made recommendations on indicators of violence and of vulnerability and on data on the general characteristics of women migrant workers and their situations, in the belief that they are essential for understanding the phenomenon of violence against women migrant workers.

A. Indicators of violence

44. Research and experience suggest that the following list of indicators of violence, while not exhaustive, includes the most significant types of violence inflicted on migrant workers, and it is recommended that data be collected on each of them. It is recognized that economic exploitation can in certain circumstances be seen as constituting a form of violence.

1. Economic exploitation

In the country of origin:

(a) Charging by agents over and above established governmental rates for documentation and processing, and the collection of unauthorized payments;

(b) Excessive rates of interest on loans for travel and other expenses.

In the receiving country:

(a) Non-payment or delay in payment of wages due under contract;

(b) Violation of wages agreed to in contract.

2. Social/psychological violence

(a) Living and working conditions substantially in breach of internationally and/or nationally agreed standards;

(b) Deprivation of access to social networks and social and religious facilities, and enforced isolation;

(c) Onset of illnesses diagnosed as relating to living and working conditions that breach conventions;

(d) Deprivation of access to medical and health facilities;

(e) Subjection to harassment, threats, punishment, intimidation, verbal abuse and ridicule.

3. Physical/sexual violence

Physical abuse and sexual harassment and abuse, including rape, by:

(a) Agents or governmental officials;

(b) Employers and others in their households.

4. Violence resulting from the operation of the legal system

(a) Unreasonable imprisonment, confinement or deportation;

(b) Unlawful or forced substitution of contracts;

(c) Unlawful withholding of passports and other documentation;

(d) Absence and/or breach of contract.

B. Indicators of vulnerability f/, g/

45. The following list, while not exhaustive, covers those situations where research and experience suggest that women migrant workers are more vulnerable than the overall population of workers, and it is recommended that intervention be focused on them and other demonstrated situations of vulnerability. Although it may be difficult to present these situations in terms of precise and measurable indicators, it is suggested that both qualitative and quantitative indicators are important in relation to indicators of violence against women migrant workers and that specific indicators for the following can be developed in due course.

1. Invalid documentation

Women are recruited and moved abroad without appropriate valid documentation.

2. Recruitment of under-age women/girls

Women/girls who are under age, according to the legal definition of the sending country, are recruited.

3. Unauthorized agents

Recruitment is by agents in the sending countries who are not subject to governmental control in the form of licensing and accreditation, supervision and sanctions in accordance with governmental regulations and guidelines.

4. Inadequate preparation

Women move abroad without preparation that is in accord with governmental and/or international regulations and guidelines on preparation (which still need to be developed).

5. Inadequate sources of support

Women migrant workers abroad have no adequate source of support/assistance and/or no ability and/or right to gain access to such a source, in the form of:

(a) A representative of their country;

(b) An ombudsman or similar local authority;

(c) A recognized non-governmental organization or other such support group;

(d) Any other suitable arrangement.

6. Inadequate reintegration services

Returning women migrant workers have no access to services designed to assist with their reintegration or, if necessary, their rehabilitation if they have been the victims of violence.

7. Violence in country of origin

Women go abroad because they have been the victims of violence in their countries of origin.

8. Inadequate regulations

Receiving countries have no clear governmental or international regulations or guidelines for women in general or specifically for women migrant workers on:

(a) Forms of abuse and violence;

(b) General working conditions.

C. Data on the general characteristics of women migrant workers

46. It is recommended that the following data on the general characteristics of women migrant workers and their situations be collected and used for identifying, analysing and understanding violence against women migrant workers:

1. General characteristics of departing women

(a) Basic socio-economic data;

(b) Demographic data;

(c) Occupation and income prior to departure;

(d) Province of origin;

(e) Country of destination;

(f) Intended occupation abroad;

(g) Source of recruitment;

(h) Motivation for going abroad to work;

(i) General circumstances of families of origin;

(j) Role of intermediaries in recruitment.

2. General characteristics of women migrant workers in receiving countries

(a) Numbers, by country of origin and type of occupation;

(b) Demographic data.

3. General characteristics of the situation prevailing in countries of origin

(a) Unemployment rates and other relevant labour market data;

(b) Gender bias (as measured by UNDP); h/

(c) Domestic violence, incidence of;

(d) Legislation, regulations and other protective arrangements applicable to the rights of workers.

4. General characteristics of the situation prevailing in receiving countries

(a) Legislation, regulations and other protective arrangements applicable to local women in employment and women migrant workers;

(b) Gender bias (as measured by UNDP); h/

(c) Domestic violence, incidence of.

D. Methods of data collection

47. Noting that it is important to collect both qualitative and quantitative data, the Expert Group recommended the following forms of data collection for use, inter alia, in relation to the range of indicators shown:

1. Data collection in sending countries

(a) Routinely collected national-level data on the extent and basic nature of the movement of women migrant workers (to provide data on sections C.1 (a)-C.1 (g) above);

(b) Surveys of departing women to obtain more detailed information (to provide data on sections C.1 (h)-C.1 (j) above);

(c) Surveys of returning workers on overseas experience, including any instances of violence (to provide data on sections A and B above);

(d) Systematic collection of data from organizations to which returning women migrant workers are most likely to turn for assistance (to provide data on sections A and B above).

2. Data collection in receiving countries

(a) Regular monitoring of data from organizations set up to receive complaints from women migrant workers (to provide data on section A above);

(b) Systematic collection of data on violations of the rights of women migrant workers from relevant non-governmental organizations (to provide data on section A above);

(c) Regular monitoring of migrant entry data - work permit applications, embassy registers and household surveys which should reflect the numbers of women migrant workers in the country, and perhaps additional data (to provide data on section C.2 above);

(d) Systematic collection of data from institutions to which women migrant workers are admitted or have recourse during their employment abroad, such as hospitals and courts (to provide data on section A above.

3. Research in sending and receiving countries

Research to cover areas not covered by regular and ongoing data collection processes.

E. Other recommendations

48. The Expert Group recommended that the appropriate United Nations agencies request member Governments to undertake and/or facilitate the collection of data relating to the above-listed indicators.

49. Given the current extent of knowledge of the situation of violence against women migrant workers, the Expert Group also recommended that the appropriate United Nations body/entity undertake, as soon as possible, a series of studies in selected sending and receiving countries, to collect data on:

(a) The extent and nature of violence against women migrant workers;

(b) The impact of violence on women migrant workers, their families and their communities.

F. Measures to improve the coordination efforts of the United Nations system on violence against women migrant workers i/, j/

50. The Expert Group discussed measures to improve coordination of efforts taken by United Nations agencies on the issue on violence against women migrant workers. Those actions are to be taken by Governments, regional intergovernmental bodies and the United Nations.

1. Action to be taken by Governments

51. The globalization of migrant labour and the problems that beset migrant women workers form an increasing reality of the contemporary global economy. National Governments that deny or have ambivalent policies with regard to the existence of de facto migration should, together with intergovernmental organizations, take the steps necessary to ensure the full protection of those de facto migrants, recognize their genuine rights and provide them with adequate support services and social benefits. Governments, in collaboration with non-governmental organizations, should establish outreach programmes and shelters and provide legal, social and educational assistance to women migrant workers.

52. Governments of receiving and sending countries, in collaboration with non-governmental organizations, should provide migrant workers with extensive pre-departure information about the laws, culture, and working and living conditions in receiving societies. Such information should include mechanisms for support services - e.g., shelters, mediation, non-governmental organizations etc. Similar information should be provided to the general public in the labour-exporting countries.

53. One of the factors underlying abuse and violence against women migrant workers is governmental inaction or indifference. Concerned States should be held accountable, in accordance with the "due diligence principle", for their inaction on issues of violence against women migrant workers.

54. National labour standards should be applied to women migrant workers and be revised and implemented in conformity with international standards and recommendations put forth by the International Labour Organization. Governments should also encourage workers' organizations to include in their activities the protection of women migrant workers.

55. In order to ensure protection of the human rights of workers, particularly women migrant workers, in receiving countries, efforts should be made to recognize the status of those in non-documented or irregular circumstances, given that many of those women are undocumented as a result of deception or coercion. Furthermore, support services should be provided in the interim.

56. Non-documented or irregular status predisposes migrants, particularly women migrant workers, to exposure to violence. Proactive measures should be taken by both sending and receiving countries to reduce the outflows of non-documented migrants.

57. Effective measures should be taken by both sending and receiving countries to institute sanctions against intermediaries who deliberately encourage the clandestine movement of workers and who exploit women migrant workers. Governments should more effectively regulate private recruitment agencies and agents so as to minimize the number of non-documented migrants.

58. In receiving societies, steps should be taken to provide equal enforcement of laws to protect women migrant workers. Furthermore, where laws for protecting women migrant workers do not exist, they should be enacted.

59. Law enforcement officials, procedures and practices often contribute to an exacerbation of the violence and abuse experienced by migrant women workers. Governments should train law enforcement officials to aid women migrant workers who are victims of violence and to encourage the reporting of such violations and the prosecution of the perpetrators.

60. Governments should provide sufficient resources and gender-sensitivity training for embassy and consulate personnel and other relevant governmental officials to respond to the needs of women migrant workers, particularly those who have been subjected to violence and abuse.

61. Governments should establish appropriate services for women migrant workers returning to their home countries who have been victims of violence and/or support reintegration programmes initiated by non-governmental organizations.

62. Bilateral agreements or other arrangements on migration for employment should include provisions such as minimum contractual conditions, grievance measures/mechanisms for aggrieved women migrant workers. There is need for common procedures to handle complaints, joint commissions, study committees and data-sharing.

63. Collaborative measures should be established in sending countries to reduce competition among them to provide migrant workers when the results of such competition may jeopardize the well-being of women migrant labour abroad.

64. Governments should take broad-spectrum measures to eliminate traffic in human beings in the widest sense of the term (i.e., for the purpose of prostitution or other forms of commercialized sex, forced marriages, and forced labour) and ensure that those measures are implemented. Governments should act to dismantle national, regional and international networks of trafficking in human beings. Governments should be encouraged to prosecute individual and organized traffickers who operate outside the jurisdiction of their own States, even without a complaint or official notice from the countries from which the persons are taken.

65. Appropriate criminal, civil, and financial sanctions should be adopted to prosecute any person or organization contributing to trafficking in persons. Moreover, victims of trafficking and support organizations should be assisted in bringing legal action against perpetrators. In that connection, the Expert Group Meeting considered that victims of trafficking should not be prosecuted for illegal residence but be provided safe shelters and support (i.e., counselling, job training, legal assistance and confidential health care), including protection against reprisals, in the countries of origin, transit and destination.

2. Action to be taken by regional intergovernmental bodies

66. Intergovernmental and regional economic and political bodies should recognize and enact policies addressing the globalization of migrant labour as an essential and structural feature of the globalization of economies. Such policies should be sensitive to the concerns of women migrant workers.

67. Regional human rights commissions and/or mechanisms, in close collaboration with non-governmental organizations, should regularly inquire into the conditions of women migrant workers and act on cases of violence against them.

68. Multilateral initiatives at the regional level should respond to the plight of women migrant workers in non-documented and irregular situations.

69. The regional commissions are urged to hold meetings on migration and development, with a particular focus on women migrant workers.

3. Action to be taken by the United Nations

70. The Administrative Committee on Coordination (ACC) should serve as the focal point within the United Nations system responsible for effectively coordinating initiatives relating to violence against women migrant workers. In that capacity, ACC, its task forces and the Interagency Committee on Women's Advancement should examine the mandates and policies of agencies and bodies of the United Nations with a view to identifying where their work can be enhanced with regard to violence against women migrant workers. Further, ACC should undertake a comprehensive review of the effectiveness of existing policies on migration, women, and violence against women in order to identify the areas where issues relating to violence against women migrant workers are not fully addressed. The ACC machinery should also coordinate initiatives to assist in the implementation of the recommendations of the present report.

71. The Commission on the Status of Women and/or an appropriate United Nations body should monitor the ongoing implementation of the recommendations of the present report.

72. The research and statistical entities of the United Nations should undertake a programme to develop indicators and research on women migrant workers taking into account the recommendations of the Meeting.

73. At its sixteenth session in January 1997, the Committee on the Elimination of All Forms of Discrimination against Women may wish to consider, discuss and take action on the question on violence against women migrant workers in accordance with its General Recommendation No. 19 on Violence Against Women.

74. The United Nations human rights monitoring bodies and mechanisms and the ILO Committee of Experts on the Application of Conventions and Recommendations should regularly request information from States parties on the status and conditions of women migrant workers and on programmes and services for women migrant workers.

75. The secretariat of the United Nations Decade on Human Rights Education should integrate the issue of violence against women, including violence against women migrant workers, into its programme of activities.

76. Member States of the United Nations should be urged to ratify the International Convention on the Protection of the Rights of All Migrant Workers

and Members of Their Families and ILO conventions that are relevant to the promotion of the welfare and the rights of women migrants.

77. The United Nations system should involve civil society in urging member States to ratify the International Convention on the Rights of All Migrant Workers and Members of their Families and the ILO conventions relevant to the promotion of the welfare of women migrant workers.

Notes

a/ "Report of the World Conference on Human Rights, Vienna, 14-25 June 1993" (A/CONF.157/24 (Part I)), chap. III.

b/ "Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995" (A/CONF.177/20, chap. I, resolution 1, annex II).

c/ General Assembly resolution 34/180.

d/ General Assembly resolution 48/104.

e/ General Assembly resolution 45/158.

f/ One expert, Mr. Then Yee Thoong, felt that, in chapter III, the title for section B should be "Identification of situations of vulnerability." He clarified the reasons why Working Group I had decided to include such a section - namely, to bring to the attention of Governments the fact that the presence of the situations listed in section B could lead to violence against women migrant workers. Moreover, the situations were qualitative in nature and did not lend themselves to quantitative measurements, as would be expected of indicators.

g/ The observer from the Government of Singapore also made a comment about section B of chapter III, which the Meeting agreed should be reflected in the report. She suggested that the title should be "Indicators of vulnerability" or "Identification of situations of vulnerability" and that the indicators listed had general problems in terms of measurability and the subjectivity involved. For instance, the term "no adequate source" in subsection B.5 was open to interpretation. "Adequate" in one case may not have the same meaning as "adequate" in another, and indicators presuppose a norm against which a comparison can be made. In the absence of a norm, the indicator was open to interpretation, which could lead to comparability and measurability problems.

Although the final report would be adopted by the Experts in their individual and private capacities, the representative of Singapore referred to paragraph 8 of General Assembly resolution 50/168, in which the expert group was called upon to develop concrete indicators as a basis for determining the situation of women migrants workers. She suggested that that implied a broad-based set of indicators on the situation of women migrant workers as a whole and would include other indicators apart from those on violence against women migrant workers. While there was no doubt that cases of victimization of women

migrant workers existed, to provide a more balanced approach and to better determine the situation of women migrant workers as a whole, positive indicators should also be included, on matters such as where women migrant workers extended or renewed their employment; their motivation for staying; net benefits perceived by women migrant workers; remittances received in sending countries.

She recommended that an open-ended working group of the General Assembly be set up to study further the question of indicators as suggested by the Expert Group Meeting. As the working group would be open to all members of the General Assembly, when the issue of indicators is being discussed, it could result in greater acceptability by the general membership at large.

h/ Human Development Report 1995 (New York, Oxford University Press, 1955), pp. 72-86.

i/ At the request of the observer from Singapore, the Expert Group agreed to include the following comment in its report: "Operative paragraph 8 of General Assembly resolution 50/168 mandated that the Expert Group Meeting come up with 'recommendations for improving coordination of the various efforts of United Nations agencies on the issue of violence against women migrant workers, and to develop concrete indicators as a basis for determining the situation of women migrant workers'. However, the Expert Group Meeting had gone beyond the mandate given by the General Assembly to put forward recommendations for 'action to be taken by Governments' and 'action to be taken by regional intergovernmental bodies', which were not required by the General Assembly."

j/ At the request of one of the experts, Mr. Then Yee Thoong, the Expert Group Meeting agreed to reflect his concerns on a number of paragraphs in this part of the report. They are as follows:

Paragraphs 51, 55 and 56

The Programme of Action of the International Conference on Population and Development made references to undocumented migrant workers. One major factor why workers migrate is to escape the poverty and unemployment situation in the home countries. Legalizing undocumented migrant workers would further encourage and exacerbate the outflow of undocumented migrant workers. This can create serious economic and social implications for small, open receiving countries. Furthermore, it would make it difficult to control trafficking of women under such circumstances.

Paragraph 52

It is practically impossible for receiving countries to provide extensive pre-departure information to potential migrant workers. This should be done by the sending countries.

Paragraph 53

This would be difficult to implement and enforce. Practical problems exist, for example: to whom is the Government accountable? For what should the State be accountable? When does the State become accountable?

Paragraphs 54, 65 and 66

These texts would imply that Governments would have to enact laws in line with ILO standards, even though those Governments might themselves not have ratified the relevant ILO instruments. This would open new avenues for certain countries on bodies to lobby for sanctions to be imposed, particularly trade sanctions, on countries that failed to amend their laws in accordance with ILO instruments. It would be no different from re-introducing or reopening the issue of "social clause" - i.e., imposing a certain uniform basis of social protection as a condition of participating in the multilateral trade system - and this would be dangerous. (Cf. International Labour Office Governing Body, Working Party on the Social Dimensions of International Trade, "Social dimensions of the liberalization of world trade" (GB.261/WP/SLD/1) (Geneva, November 1994).

Paragraph 58

1. The laws apply equally to local nationals or foreigners who are found guilty of abusive and violent acts in all receiving countries.

2. It is common for countries to exclude certain categories of workers from their labour codes for good reasons. In Singapore, for example, the Employment Act exclude professional, managerial and executive employees as well as domestic workers, whether local or foreign. Extending the law to cover foreign domestic workers would be seen to give migrant workers more protection than what local workers enjoy.

3. Receiving countries should be given the flexibility to decide how best to protect women migrant workers. In many instances, administrative measures may prove more effective than legal ones.

Paragraphs 62 and 63

The expert considered that bilateral agreements were the prerogative of the two States concerned. It was not for the Expert Group Meeting to instruct Governments. He also sought clarification on the intention of paragraph 62.

Paragraph 64

The expert referred to the report of the Secretary-General on violence against women (A/50/378), which stated that trafficking would be the subject of a separate report.

Paragraphs 76 and 77

Given the small number of States that had ratified or acceded to the International Convention on the Protection of All Migrant Workers and Members of Their Families and the fact that the Convention had not come into force yet, as a matter of practicality, primary reliance for the protection of women migrant workers must rest with the domestic laws of the receiving countries. Moreover, given the diversity of domestic conditions of each receiving country, international regimes can only always, at best, supplement the domestic law of the receiving country.